

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:19 CR 159
	)	Judge Philip P. Simon
SAMANTHA ELHASSANI,	)	
	)	
Defendant.	)	

**DEFENDANT’S SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF SENTENCING MEMORANDUM**

Defendant, **SAMANTHA ELHASSANI**, by and through her attorneys, **THOMAS ANTHONY DURKIN** and **JOSHUA G. HERMAN**, hereby requests leave to submit supplemental authority in advance of the sentencing hearing and in further support of the defense’s position on the “Terrorism Enhancement” from U.S.S.G. §3A1.4. *See* Sentencing Memorandum, Dkt. #24, pp. 10-12.

On October 22, 2020, the Ninth Circuit Court of Appeals issued its opinion in *United States v. Alhaggagi*, \_\_\_ F.3d \_\_\_\_; 2020 U.S. App. LEXIS 33309; 2020 WL 6192982 (9<sup>th</sup> Cir. 2020), a copy of which is attached hereto as Exhibit A. In *Alhaggagi*, the Ninth Circuit Court of Appeals held that the terrorism enhancement from U.S.S.G. §3A1.4 did not apply based on the facts of that case. Specifically, the Ninth Circuit held that for the enhancement to apply, the government must prove that the defendant acted with specific intent and that his actions were “calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct.” *Alhaggagi*, 2020 U.S. App. LEXIS 33309, \*18 (quoting 18 U.S.C. §2332b(g)(5)(A)). The Ninth Circuit concluded that the evidence, which showed that the defendant opened social media accounts for ISIS, was insufficient to show that his intent and conduct met those standards.

While, consistent with the plea agreement, counsel do not object to the technical application of U.S.S.G. §3A1.4, it is respectfully submitted that *Alhaggagi* further supports the defense position that the terrorism enhancement's severe impact on the guidelines under the particular facts of this case is "a gross overstatement of the seriousness of this offense." (Dkt. #24, p. 10).

Respectfully submitted,

/s/ Thomas Anthony Durkin

**THOMAS ANTHONY DURKIN**

/s/ Joshua G. Herman

**JOSHUA G. HERMAN**

Attorneys for Defendant

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**CERTIFICATE OF SERVICE**

Joshua G. Herman, Attorney at Law, hereby certifies that the foregoing was served on November 5, 2020, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

/s/ Joshua G. Herman  
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